

1-1-2001

## Digest of Washington issues, 107th Congress, Spring/Summer 2001

American Institute of Certified Public Accountants. Washington Office Staff

Follow this and additional works at: [https://egrove.olemiss.edu/aicpa\\_news](https://egrove.olemiss.edu/aicpa_news)

---

### Recommended Citation

American Institute of Certified Public Accountants. Washington Office Staff, "Digest of Washington issues, 107th Congress, Spring/Summer 2001" (2001). *Newsletters*. 359.  
[https://egrove.olemiss.edu/aicpa\\_news/359](https://egrove.olemiss.edu/aicpa_news/359)

This Article is brought to you for free and open access by the American Institute of Certified Public Accountants (AICPA) Historical Collection at eGrove. It has been accepted for inclusion in Newsletters by an authorized administrator of eGrove. For more information, please contact [egrove@olemiss.edu](mailto:egrove@olemiss.edu).

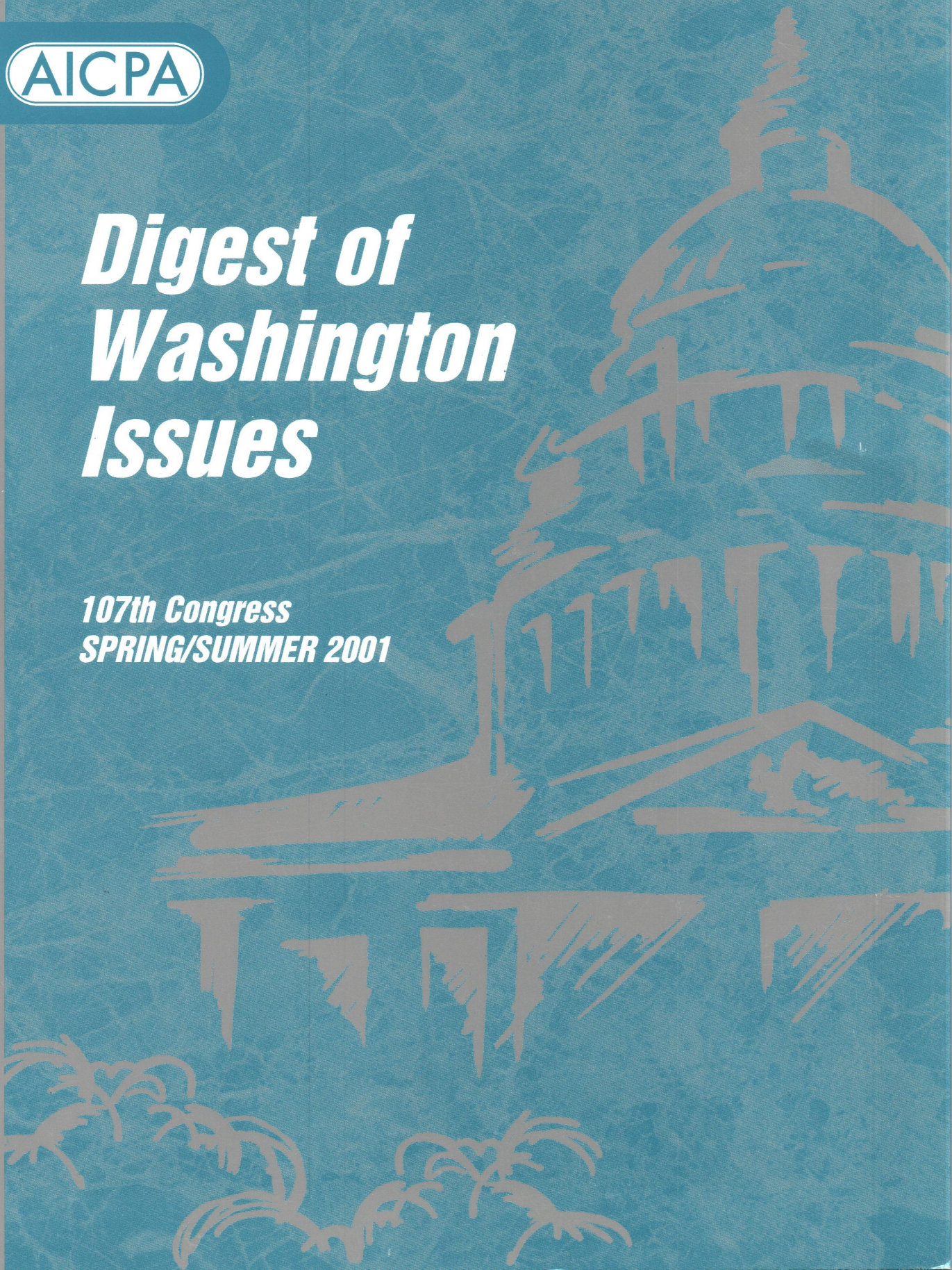


**AICPA**

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

# ***Digest of Washington Issues***

***107th Congress  
SPRING/SUMMER 2001***





# AICPA Washington Office Staff

---

## Senior Vice President:

John E. Hunnicutt  
Public Affairs  
202/434-9203

## Vice Presidents:

J. Thomas Higginbotham  
Congressional and Political Affairs  
202/434-9205

Gerald W. Padwe  
Taxation  
202/434-9226

Cynthia S. Lund  
State Society Affairs and Strategic  
Planning  
202/434-9257

## Directors:

Sheri Bango  
State Societies and Regulatory Affairs  
202/434-9201

Lynn Drake  
Communications – Washington  
202/434-9214

Edward S. Karl  
Taxation  
202/434-9228

Peter Kravitz  
Congressional and Political Affairs  
202/434-9218

Ian A. MacKay  
Professional Standards and Services  
202/434-9253

William R. Stromsem  
Taxation  
202/434-9227

# AICPA Leadership

---

The Chairman of the AICPA Board of Directors is elected from the membership and serves a one-year term. Kathy G. Eddy, CPA, of Parkersburg, WV is the Chairman of the AICPA. She is a shareholder with McDonough, Eddy, Parsons and Baylous, A.C.

Barry C. Melancon, CPA, is the President and CEO of the AICPA.

The AICPA Council is the Institute's policy-making governing body. Its 263 members represent the more than 330,000 AICPA members from every state and U.S. territory. The Council meets twice a year.

The Board of Directors acts as the executive committee of Council, directing Institute activities between Council meetings. The 23-member Board of Directors includes three public members. The Board meets five times a year.

The work of the AICPA is done primarily by its volunteer members serving on a variety committees, technical resource panels, and task forces. The AICPA has a permanent staff of about 600 and a revenue budget of \$135 million for the fiscal year ending in 2002.



*ISO9001 Certified*

# ***Digest of Washington Issues***

***107th Congress  
Spring/Summer 2001***

***[www.aicpa.org](http://www.aicpa.org)***

# The CPA Vision

---

***"Vision: The art of seeing things invisible."***

***— Jonathan Swift.***

Visioning focuses efforts on desired, long-term outcomes and recognizes that change is a constant of the future. The accounting profession developed the CPA Vision to meet the challenge of retaining CPAs' premier position as a vital part of the world economy and global community in the 21<sup>st</sup> century. The CPA Vision embraces the tangible and intangible qualities that have defined the profession for over 100 years and provides the basis for expanding the value of the CPA in tomorrow's marketplace. Helping CPAs stay on top of the change curve is what the CPA Vision is all about.

CPAs are the trusted professionals who enable people and organizations to shape their future. Combining insight with integrity, CPAs deliver value by:

Communicating the total picture with clarity and objectivity,  
Translating complex information into critical knowledge,  
Anticipating and creating opportunities, and  
Designing pathways that transform vision into reality.

The following elements make up the CPA Vision:

**Core Values:**

- Continuing Education and Life-Long Learning
- Competence
- Integrity
- Attuned to Broad Business Issues
- Objectivity

**Core Services:**

- Assurance and Information Integrity Services
- Technology Services
- Management Consulting and Performance Management Services
- Financial Planning
- International Services

**Core Competencies:**

- Communications and Leadership Skills
- Strategic and Critical Thinking Skills
- Focus on the Customer, Client and Market
- Interpretation of Converging Information
- Technologically Adept

***CPAs . . . . Making sense of a changing and complex world***

# Table of Contents

---

	Highlights of Recent Action .....	1
<b>Technology Issues</b>	Privacy .....	3
	Electronic Commerce .....	5
<b>Tax Issues</b>	Fiscal Years for Passthrough Entities .....	7
	Estate Tax Reform .....	9
	Generation-Skipping Transfer Tax .....	11
	Marriage Penalty Relief .....	13
	Individual Tax Cut Bill.....	15
	Business Tax Shelters .....	17
	Individual AMT .....	19
	Workplace Retirement Planning.....	21
	Tax Simplification.....	23
<b>Auditing and Accounting Issues</b>	Financial Reporting Standards-Setting Process .....	25
<b>Public Policy Issues</b>	Social Security Reform.....	27
<b>Workplace Issues</b>	Application of Wage and Hour Laws to Professional Employees .....	29

# Highlights of Recent Actions

---

## **Privacy**

Congress continues to struggle with how to protect individuals' privacy in the electronic age and with what role the federal government should play. Policy makers have at least three avenues of approach to addressing the problem: 1) Deputize a federal agency and its bureaucracy; 2) Empower the trial lawyers to sue to enforce compliance; or 3) Encourage private-sector solutions. The CPA profession is well positioned to be part of the private-sector solution by providing independent third-party verification of the privacy policy representations made by a vendor. *WebTrnst* Version 3.0 is a good example of the assurance the profession can bring to private-sector efforts to solve privacy and other Internet consumer fears.

## **Electronic Commerce**

State and local taxation of business transactions on the Internet and unsolicited commercial e-mail, commonly known as spam, are on the Congressional e-commerce agenda this year. The moratorium Congress imposed three years ago on Internet taxation expires in October, which will force Congress to grapple with the thorny question of how to balance competing business, state, and local issues. The House Commerce Committee has already unanimously approved a bill to restrict spam.

The AICPA's *WebTrnst* Version 3.0 and *SysTrnst* are part of a global effort by the accounting profession to bring effective private-sector solutions to e-commerce. The AICPA's *WebTrnst* Program Version 3.0 is comprised of a set of comprehensive, global, e-business best practices/standards that encourage online confidence and activity among e-commerce customers and that help reduce certain business risks. *SysTrnst* provides assurance that a system (which is defined as an organized collection of infrastructure, software, people, procedures and data) has been tested and found to be reliable after being measured against four key principles: availability, security, integrity, and maintainability.

## **Fiscal Years for Passthrough Entities**

Because of the large budget surplus, some Members of Congress have encouraged us to pursue relief from the consequences of workload compression that CPAs and small business taxpayers have experienced since enactment of the Tax Reform Act of 1986. An AICPA task force is in the final stages of developing a legislative proposal to ease the workload compression problem, and it will be submitted to Congress this session.

## **Estate Tax Reform**

The House passed H.R. 8 on April 4, 2001. It would phase out estate, gift, and generation-skipping taxes over the next decade. Earlier this year, the AICPA released its year-long study of estate and gift taxes. The study, whose purpose is to educate and analyze, confirms that significant reform of the U.S. transfer tax system is appropriate and should be undertaken as quickly as possible.

## **Generation-Skipping Transfer Tax**

The House passed the proposal the AICPA developed with the American Bar Association, the American Bankers Association and the American College of Trust and Estate Counsel to modify the generation-skipping transfer (GST) tax as part of H.R. 8 on April 4, 2001. Our lobbying effort is now directed at the Senate, where we will continue to push for approval of our GST tax proposal.

---

The House passed a marriage penalty relief bill on March 29, 2001, by a vote of 282 to 144 as part of the second bill to implement President Bush's proposed \$1.6 trillion tax cut package. While 64 Democrats voted to pass H.R. 6 in the House, it faces tougher prospects in the Senate, which is evenly divided between the two political parties. The AICPA believes that the marriage penalty should be reduced or eliminated because it is inequitable and adds complexity to the tax code. Two of the possible approaches the AICPA laid out to Congress in 1998 as ways to relieve the marriage penalty are included in H.R. 6.

### **Individual Tax Cut Bill**

The House passed H.R. 3, a \$958 billion marginal income tax cut bill, on March 8, 2001, by a vote of 230 to 198. It embodies the core of President Bush's \$1.6 trillion tax cut proposal. H.R. 3 would cut the marginal tax rates for all taxpayers by reducing the current five income tax brackets to four, lower rates—10%, 15%, 25%, and 33%. As Congress decides whether a tax cut should be enacted, the AICPA strongly advocates the need for simplification of the tax code and supports proposals that would reduce complexity.

### **Business Tax Shelters**

Business tax sheltering poses a problem for the tax system because any actual or perceived abuse of tax laws undercuts America's system of voluntary compliance. In January 2001, the Department of the Treasury proposed new rules that, among other things, strengthen current standards under IRS Circular 230 (which contains the rules governing practice before the IRS) for those individuals who provide opinions on tax shelters. A public hearing on the proposed regulations is scheduled for May 2, 2001. The AICPA will testify at that hearing, and the Institute submitted written comments on the proposed regulations.

### **Workplace Retirement Planning**

The AICPA, the Consumer Federation of America, and various other organizations representing financial planners developed a provision that would preclude the value of employer-provided retirement planning assistance from being a taxable fringe benefit to an employee. Our proposal is in H.R. 10 and S. 742, House and Senate companion bills to encourage retirement savings. H.R. 10 was introduced with more than 250 cosponsors and is expected to soon move through the House as a stand-alone bill. S. 742 has 20 cosponsors.

### **Financial Reporting Standards-Setting Process**

Congress is not presently engaged in issues related to any FASB project. However, we expect going forward that Congress will be pressured to intervene whenever the private sector standards setters' efforts to produce transparency in the capital markets clash with the desire of corporate managers to maximize the market valuation of their stock.

### **Social Security Reform**

While various Social Security reform bills have been introduced this year, Congress has not started serious consideration of the issue. When it does, the debate is likely to revolve around President Bush's proposal to allow workers to put part of their Social Security contributions in private investment accounts. The comprehensive, non-partisan analysis of the major options to reform Social Security that the AICPA released in 1998 does not identify a "right" solution. Rather, it gives lawmakers and the public an unbiased tool to develop a clear understanding of the facts and issues surrounding reform. We do, however, believe that Congress needs to act now, rather than later, to choose a solution and plan for a reasonable transition. The longer we delay, the more difficult and painful the solution becomes.



# Privacy

---

**Issue:**

Should Congress pass legislation to protect individuals' privacy?

**Why It's  
Important to CPAs:**

The privacy rights of individuals are playing an increasingly significant role in both the domestic and international marketplaces where CPAs do business. Third-party verification of privacy policies is now an important issue that could involve responsibilities for the profession with related liability risks.

**Background:**

Protecting individuals' privacy has become an increasingly troublesome issue as sophisticated technology has made it easier and easier to mine personal information—everything from individuals' bank balances, to their Social Security numbers, to what their favorite products are and from whom they buy them. While in the past such information might have been collected and held in isolated mainframe computers, it is now available in vast, readily accessible databases where it can be manipulated and transmitted around the world in milliseconds.

Numerous bills were introduced in the last Congress relating to various privacy issues, but the only substantive move Congress made on the privacy front was to include language in the Gramm-Leach-Bliley banking reform bill to allow financial institution customers to “opt out” of having their personal information shared with non-affiliated third parties. U.S. privacy advocates do not believe the new law's “opt out” provision is adequate. They think companies should be required to obtain consumers' permission before sharing any data (an “opt-in” approach).

The European Union (EU) uses the “opt in” approach and prohibits personal data from being sent to non-EU countries that do not have “adequate” legal safeguards to protect the data. Last year, the U.S. and the EU negotiated a data privacy accord. Under the accord, a “safe harbor” system will allow data to flow between the U.S. and the EU while protecting the personal rights of citizens of the EU. Under the arrangement, U.S. organizations would voluntarily agree to adhere to principles that bridge the gap between U.S. and EU systems governing data privacy. However, the EU privacy issue is far from settled. Financial services firms are not covered by the “safe harbor” and other U.S. companies are concerned that the implementation of the EU's proposed privacy rules would make them liable for actions by their European partners and bound by any legal settlements entered into by European companies. In March, the Bush Administration sent a letter to the EU asking that implementation of the rules be delayed.

**Recent Action:**

Consumer and business interests are squeezing Congress to enact a federal privacy framework. Congress reacted with an introductory flurry of privacy-related bills shortly after the 107<sup>th</sup> Congress convened. However, no consensus or clear strategy exists to guide Members of Congress through the privacy maze, although in recent weeks the debate seems to be coalescing around the question of whether consumers should be able to “opt-out” or “opt-in.” Consumer advocates are anxious to protect the personal data of individuals. Business leaders fear that if Congress doesn't act, individual states will pass laws more stringent than those being considered at the federal level, resulting in a patchwork quilt of conflicting privacy protections.

---

A sampler of legislation introduced to date includes bills to do the following:

- Give the Federal Trade Commission the authority to police how information can be collected and shared on the Internet;
- Establish a way to go after online marketers who trade customer information without first getting consent from the customer;
- Prohibit the sharing by business of financial and medical information without prior permission from the individual;
- Restrict the use of Social Security numbers, and
- Establish a privacy commission to study the myriad issues involved in the privacy debate and to make recommendations to Congress.

While last Congress the House narrowly failed to approve a bill establishing a privacy commission and the House Commerce Subcommittee on Commerce, Trade and Consumer Protection this Congress has followed up with a series of hearings, no legislation has been developed at this time.

**AICPA Position:**

Mechanisms already exist in the private sector to help provide some assurance to consumers that what they see is what they get. One private-sector solution for ensuring individuals' privacy is third-party verification. Third-party verification means that an objective third party examines a business's privacy policy to make sure that the privacy representations are true and that the business is following them in day-to-day transactions. *WebTrust* Version 3.0, and its related WebTrust Program for Online Privacy, is an example of a third-party verification program currently available in the private sector.

Because the accounting profession has a nexus to the privacy debate through third-party verification and the related liability risks it could bring, last Congress the AICPA sought an amendment to a bill that would have established a privacy commission to require the commission's report to include a look at third-party verification as an enforcement mechanism. The appropriate House committee approved the AICPA amendment, but Congress did not pass the bill. H.R. 583, a bill introduced in this Congress by Rep. Asa Hutchinson (R-AR) to establish a privacy commission, includes our amendment from last Congress.

**Jurisdiction:**

House Commerce. House Judiciary. Senate Commerce. Senate Judiciary.

**AICPA Staff  
Contacts:**

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

# Electronic Commerce

---

- Issue:** Should Congress pass legislation regulating commerce on the Internet?
- Why It's Important to CPAs:** The accounting profession believes it has a role in enhancing electronic commerce and in providing consumers more confidence in electronic transactions.
- Background:** As the volume of electronic commerce mushrooms, a host of issues associated with this new model for doing business has moved into the Congressional arena. Among the hottest topics are privacy, consumer protection, and state and local taxation of business transactions on the Internet.
- Recent Action:** Below is a status report of major e-commerce issues before Congress:
- **Internet Taxation**—The looming expiration in October of the moratorium on new Internet taxation is going to force Congress to grapple this year with the thorny question of how to balance competing business, state, and local issues presented by Internet taxes. Congress imposed the three-year moratorium in 1998 on any new taxes on Internet access and on any multiple or discriminatory taxes on electronic commerce. A moratorium extension is supported by both Republicans and Democrats, as well as by President Bush.
- The House is likely to pass a straight five-year extension of the moratorium similar to the bill it passed last year by a large majority, but it may not have any better chance of passing the Senate this year than it did last year. Supporters of a straight extension argue that a moratorium is important in order to encourage consumers and businesses to use the Internet and to support the growth of Internet service providers.
- Others, such as Senator John McCain (R-AZ), the chairman of the Senate Commerce Committee, believe that any moratorium extension needs to be coupled with incentives that will give states the leverage they need to force Internet businesses to compromise on on-line sales taxes. S. 512, the Internet Tax Moratorium and Equity Act, introduced by Senator Byron Dorgan (D-ND) is an example of such an approach. S. 512 would extend the existing moratorium and also authorize states to enter into an Interstate Sales and Use Tax Compact that would describe a uniform, streamlined sales and use tax system. The National Conference of State Legislatures and the National Governors' Association support S. 512. A number of state legislatures are already considering simplification of their sales taxes using as a model the measure produced by the Streamlined Sales Tax Project in November 2000.
- On March 14, 2001, Chairman McCain held the first in what is likely to be series of hearings exploring issues related to electronic commerce sales tax questions.
- In December 1999, the AICPA submitted a report calling for radical simplification to the current sales and use tax system to the Advisory Commission on Electronic Commerce, which was established by Congress in 1998. The Institute's report, to the extent possible, balanced simplicity and sovereignty, recognizing that these factors are often mutually exclusive.
- **Consumer Protection**—Consumer protection is central to the debate on many e-commerce issues. Lawmakers and regulators continue to seek a simple process that can be used to resolve disputes that arise when goods are purchased on the Internet.

- 
- **Privacy**—See page 3.
  - **Spam**—Congress is moving to restrict the sending of unsolicited commercial e-mail otherwise known as spam. The House Energy and Commerce Committee unanimously approved H.R. 718 on March 28, 2001. The bill would: 1) require commercial senders of unsolicited e-mail to include a valid return address so recipients could “opt-out” of receiving future messages; 2) give the Federal Trade Commission the authority to act against senders of spam; and 3) allow Internet Service providers to sue in federal court for \$500 a message, up to \$50,000 if a person or company violated the law. In the Senate, S. 630 was introduced on March 27, 2001, which would also curb spam and impose penalties on violators.

### **AICPA Position:**

The AICPA's *WebTrust* Program, Version 3.0, is comprised of a set of comprehensive, global, e-business best practices/standards that encourage online confidence and activity among e-commerce customers and that help reduce certain business risks. Under *WebTrust* Version 3.0, businesses, with the assistance of their CPAs, can select the *WebTrust* product that they need by choosing from a “cafeteria selection” of standards. The CPA can provide consultation and advice to the client to help him or her meet these standards and can also provide an opinion, following an independent examination, that in fact a business does meet the specific *WebTrust* Principles and Criteria.

Version 3.0 of *WebTrust* includes standards for business-to-business sites, business-to-consumer sites, and standards for service providers and certification authorities. These *WebTrust* best practices include business practices/transaction integrity, security, privacy, availability, confidentiality, and non-repudiation.

Another AICPA service offered by CPA firms is *SysTrust*. CPAs who offer the *SysTrust* service provide assurance that a system (which is defined as an organized collection of infrastructure, software, people, procedures and data) has been tested and found to be reliable after being measured against four key principles: availability, security, integrity, and maintainability. Today, systems run businesses, produce products and services, and deal with customers and business partners. A reliable system is defined as a system that operates without material error, fault or failure during a specified time in a specified environment. An unreliable system can cause a chain of events with negative consequences for a company and its customers, suppliers and business partners. *SysTrust* helps supply a variety of users—from shareholders to bankers—with assurance on informational databases and systems.

*WebTrust* and *SysTrust* are part of a global effort by the accounting profession to bring effective private-sector solutions to e-commerce. *WebTrust* is now being offered in the United States, Canada, the United Kingdom, Ireland, France, Germany, Netherlands, Spain, Denmark, New Zealand, Hong Kong, Italy, Argentina and Australia. Negotiations are underway to continue expansion into other countries.

### **Jurisdiction:**

House Commerce. Senate Commerce.

### **AICPA Staff Contacts:**

Anthony Pugliese – Vice-President – Member Innovation 212/596-6083  
J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205



# Fiscal Years for Passthrough Entities

---

## **Issue:**

Should Congress modify the tax law to ease the workload imbalance that the accounting profession is experiencing as a result of the Tax Reform Act of 1986 (TRA '86) and the switch from fiscal years to calendar years for certain business entities?

## **Why It's Important to CPAs:**

TRA '86 required trusts, partnerships, S corporations and personal service corporations (PSCs) to adopt a calendar year-end. In 1987, thanks to the efforts of thousands of CPAs, the calendar-year requirement was relaxed with the enactment of Internal Revenue Code section 444, which permitted partnerships, S corporations and PSCs to retain, and allowed new entities to elect, certain fiscal year-ends. While many of these businesses retained their fiscal year-ends, most did not. The shift of so many clients to calendar years, when combined with the heightened complexity caused by TRA '86, resulted in a tremendous shift of the work performed by CPAs who do accounting and tax work to the first four months of the year. Further, the workload of CPAs and their employees became unacceptably light for the remaining eight months of the year. This phenomenon, referred to by CPAs as "workload compression," has ramifications for small business taxpayers, as well as the CPAs who do their taxes and perform their audits. (Final audit reports are ordinarily due within 90 days after a client's year-end.) Innumerable small businesses whose natural and calendar year-ends do not coincide have been damaged by the calendar-year-end requirement.

## **Background:**

Congress tried to correct this problem twice in 1992 by including, in large tax bills that were vetoed by then-President Bush, a proposal to relax the calendar-year-end requirement.

In 1993, the workload situation became even worse after the Omnibus Budget Reconciliation Act was enacted. The law raised the top individual tax rate to 39.6%, which in turn increased the deposit (from 32% to 40.6%) required under section 444 to be paid by companies still using fiscal years. Many companies were unwilling to pay the increased deposit and shifted to calendar years.

Proposals put forward after 1993 to correct the workload compression problem have not moved forward in Congress because of their cost.

## **Recent Action:**

Some Members of Congress this year have said that because of the budget surplus it might be possible to include provisions in a larger tax bill to ease the workload burden still felt by CPAs.

An AICPA task force is in the final stages of developing a legislative proposal to ease the workload compression problem, and it will be submitted to Congress this session. The magnitude of government revenue required to implement a solution will doubtless have an effect on our efforts.

## **AICPA Position:**

Workload compression continues to be a significant practice management problem for CPAs. The AICPA believes that Congress should once again consider alternatives for easing the workload compression problem that was created by the enactment of TRA '86.

---

***Jurisdiction:***

House Ways and Means. Senate Finance.

***AICPA Staff  
Contacts:***

Gerald W. Padwe – Vice President, Taxation 202/434-9226

James Clark, Jr. – Technical Manager, Tax Division 202/434-9229

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

# Estate Tax Reform

---

**Issue:**

Should Congress pass legislation to reform the nation's estate and gift tax laws?

**Why It's  
Important to CPAs:**

The current transfer tax system consists of a set of complex laws that apply to estates, gifts, and generation-skipping transfers. These laws are separate from our income tax system. However, the transfer tax and income tax systems interact with each other in an attempt to achieve overall fairness and congruity in a system of taxation designed both to raise revenue and to achieve various policy goals. Therefore, any reform of the transfer tax system necessitates an examination of the impact of such transfer tax changes on the income tax system, and how both systems affect complexity, taxpayer compliance burdens, ease of administration, and revenue. As business and financial advisers, and as major participants in the administration of both the income and transfer tax systems, CPAs have a unique objective and nonpartisan perspective to contribute to the policy debate.

**Background:**

The United States' transfer tax system historically has been targeted at the very wealthy. The estate tax currently affects a small percent of all estates, but increasing numbers of taxpayers with moderate wealth are likely to be subject to the tax in the future. (Currently the federal estate tax is levied on assets exceeding \$675,000, with the exclusion scheduled to rise to \$1 million by 2006.) In addition, many are concerned about the impact of the estate tax on estates consisting primarily of small businesses, family farms and illiquid or inaccessible assets.

Those escalating concerns have caused most observers to agree that some form of modification to the current system is necessary. The debate centers on how, not if, the system should be changed.

Last year, Congress passed legislation to repeal the estate tax, but the president subsequently vetoed it.

**Recent Action:**

Estate tax repeal was one of President Bush's central tax campaign promises, and his support underlies the continuing strong Congressional appetite for reform of the transfer tax system. On April 4, 2001, the House passed H.R. 8, which would repeal estate, gift, and generation-skipping taxes over the next decade. The vote was 274 to 154, with 58 Democrats voting for the bill. H.R. 8 provides for:

- Gradual reduction of the current top rate of 55% to 39% by 2010, with full repeal in 2011;
- Calculation of capital gains on the first \$1.3 million in assets to be based on the value at the time of death; and
- Calculation of capital gains on assets over \$1.3 million to be based on the basis (normally cost) to the decedent.

Before approving H.R. 8, the House rejected a Democrat alternative, by a vote of 227 to 201, that would have provided immediate estate tax relief by increasing the exemption from the estate tax next year to \$2 million per individual, or \$4 million per couple. Supporters of the Democrat alternative argued that it would deliver quick relief from the estate tax to those taxpayers in greatest need—America's family farmers and small business owners, while leaving in place the inheritance tax on the wealthiest taxpayers.

---

The scenario for estate tax relief in the Senate, where the political parties are evenly split, is unclear. Several bills have been introduced in the Senate that would repeal the estate and gift taxes and the generation-skipping transfer tax. For example, S. 275, sponsored by Senator Jon Kyl (R-AZ) and several other members of the Senate Finance Committee, would repeal the estate tax immediately. However, the bill would require heirs to pay a capital gains tax on their inherited assets based on the original value, but only at the time of sale and with \$2.8 million per person exempt from any taxation.

The Senate Finance Subcommittee on Taxation and IRS Oversight held a hearing on estate taxes on March 15, 2001, but has not indicated whether it will draft its own bill or use H.R. 8 as the vehicle for full Senate consideration. Senate Democrats are nearly certain to try to broker a compromise along the lines of the failed House Democrat alternative to H.R. 8.

**AICPA Position:**

The AICPA earlier this year released its year-long study of estate and gift taxes entitled *Study on Reform of the Estate and Gift Tax System*. This study, whose purpose is to educate and analyze, confirms that significant reform of the U.S. transfer tax system is appropriate and should be undertaken as quickly as possible.

The *Study* provides an overview of the arguments others have made both for and against the current transfer tax, a summary of the current system, and a description of possible modifications and alternatives, including outright repeal. For each modification or alternative, there is an analysis of its impact on taxpayer behavior, complexity and compliance, liquidity, redistribution of wealth, tax and succession planning, revenue, and transition issues, as well as a discussion of advantages, concerns, suggestions, and conclusions for each modification and alternative.

The AICPA *Study* identifies a number of significant issues and makes substantive suggestions that the AICPA hopes lawmakers will consider as Congress continues its debate of estate tax reform. The *Study* offers suggestions on each of the alternatives—not as a matter of ideology or social policy, but as a result of the collective judgment of the CPAs who were on the task force that developed the *Study*—as to the best way to achieve simplicity, reduce taxpayer compliance burdens, improve ease of administration, and address revenue considerations with respect to the overall tax system.

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226

Eileen Sherr – Technical Manager, Tax Division 202/434-9256

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205



# Generation-Skipping Transfer Tax

---

## **Issue:**

Should Congress modify the generation-skipping transfer (GST) tax it enacted in 1986?

## **Why It's Important to CPAs:**

CPAs are concerned about the excessive complexity of the tax code, and the GST tax is an example of how complexity bedevils taxpayers because it provides a classic tax trap for the unwary.

## **Background:**

The GST tax is too mechanically complex for most American taxpayers to understand. As a result, taxpayers do not make timely allocation of the exemption that Congress provided when they make a gift in trust. Failure to make the timely allocation can later result in unintended and punitive taxes. Those taxpayers that try to allocate the GST tax exemption in good faith make mistakes because of the system's complexity and because an unnatural order to death (child before parent) can destroy planning undertaken years earlier.

The IRS cannot grant relief to taxpayers because the exemption allocation rules are statutory and not regulatory.

In 1999 and 2000, Congress passed the GST tax proposals the AICPA developed with the American Bar Association, the American Bankers Association and the American College of Trust and Estate Counsel as part of tax bills that were subsequently vetoed.

Our GST tax proposal would:

- Extend the automatic GST tax exemption allocation rule (that currently applies to direct skips) to GST trusts (those trusts to which most people would want the GST exemption allocated). Those taxpayers that do not want the automatic allocation to apply could elect out of the allocation.
- Provide statutory authority for IRS to grant relief under its regulation to taxpayers for late allocations.
- Confirm that substantial compliance provisions cover allocations evident from the return and other documents.
- Extend the predeceased parent exception to provide for retroactive allocation of the GST tax exemption for unnatural orders of death when the transferor is still alive.
- Provide a trust severance rule to cover various situations including unexpected order of death and when there is an inclusion ratio between zero and one.

## **Recent Action:**

The 107<sup>th</sup> Congress is considering the GST tax as part of the estate tax reform debate. The GST tax proposal developed by the AICPA and others is included in H.R. 8, a bill that would abolish the estate tax by 2011 and which the full House approved on April 4, 2001. (See page 9.)

The scenario in the Senate for estate tax reform is unclear, but whatever package the Senate puts together is expected to include language to modify the GST tax.

---

**AICPA Position:**

The AICPA believes Congress should pass our GST tax proposal and lobbied for its inclusion in H.R. 8. We will continue our campaign to have our proposal approved as Congress continues its consideration of legislation to reform the nation's estate tax laws.

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226

Eileen Sherr – Technical Manager, Tax Division 202/434-9256

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

# Marriage Penalty Relief

---

**Issue:**

Should Congress pass a bill to eliminate or reduce the marriage penalty?

**Why It's Important to CPAs:**

CPAs believe the marriage penalty is inequitable and that Congress should reduce or eliminate it. Simplification of the tax system would be another important, positive result of reducing or eliminating the marriage penalty.

**Background:**

Under the current tax system, a “marriage penalty” and “marriage bonus” exist. The “marriage penalty/bonus” results when two married individuals have a greater (penalty) or smaller (bonus) tax liability than two single individuals with the same total incomes.

The fact that there are at least 63 provisions in the Internal Revenue Code where tax liability depends on whether a taxpayer is married or single illustrates how the marriage penalty adds complexity to the tax system. Most of these differences were created to make the tax code fair, to target benefits to specific taxpayers, or to prevent abuses. Some examples are the tax rates, standard deduction, earned income credit, Social Security benefits taxation, capital loss limits, IRAs, child credit, and education tax incentives.

Congress tried to alleviate the marriage penalty for many taxpayers in 1999 as part of the tax bill it passed, only to see the bill vetoed. In 2000, the House demonstrated strong support for alleviating the marriage penalty by passing a stand-alone bill to ease the marriage penalty. The House bill would have: 1) made the standard deduction for married couples double that for single people; 2) phased in an increase in the 15% tax bracket for married couples to double that for singles; and 3) eased the marriage penalty for couples eligible for the earned-income tax credit. The Senate Finance Committee approved similar legislation, but Democratic opposition to the measure blocked it from being approved by the full 106<sup>th</sup> Congress. Senate Democratic opposition stemmed from a belief that the relief offered by the bill exceeded what was necessary to correct the marriage penalty problem.

**Recent Action:**

The House passed a marriage penalty relief bill on March 29, 2001, as part of the second bill to implement President Bush's proposed \$1.6 trillion tax cut package. The Marriage Penalty and Family Tax Relief Act of 2001 passed the House by a vote of 282 to 144.

The bill, H.R. 6, would:

- Increase the standard deduction for joint returns to an amount that is equal to twice the standard deduction provided to single filers. This provision would be effective for taxable years beginning after December 31, 2001;
- Phase in an increase in the 15% income tax bracket for joint filers to twice the size of the corresponding rate bracket for single filers. This provision would be fully effective for taxable years beginning after December 31, 2008;

- 
- Raise the income threshold for lower-income couples to claim the earned income tax credit, so they don't effectively lose their tax cuts to the alternative minimum tax; and
  - Increase the child tax credit from \$500 to \$1,000 over the next six years. For 2001, the child tax credit would be increased to \$600.

While 64 Democrats voted to pass H.R. 6 in the House, it faces tougher prospects in the Senate, which is evenly divided between the two political parties.

**AICPA Position:**

The AICPA believes that the marriage penalty should be reduced or eliminated because it is inequitable and adds complexity to the tax code.

Two of the possible approaches the AICPA laid out in 1998 for Congress to consider to provide marriage penalty relief are incorporated in H.R. 6. House lawmakers followed the AICPA's recommendation to broaden the rate/bracket schedules applicable to married taxpayers. They also broadened the phase-out ranges applicable to married taxpayers for the earned income credit.

Two other AICPA suggestions were not included in H.R. 6: 1) a tax credit or tax deduction for married couples; and 2) a combined filing-separately return with single rates applying to each spouse's taxable income.

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226

Eileen Sherr – Technical Manager, Taxation 202/434-9256

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205



# Individual Tax Cut Bill

---

**Issue:**

Should Congress pass a bill cutting taxes for American taxpayers?

**Why It's Important to CPAs:**

Any major tax bill is important to CPAs because it gives the accounting profession a new opportunity to persuade Congress to simplify complex areas of our current tax system. Present tax law is indefensibly complicated—to the point that it threatens our system of voluntary compliance. Too often, in recent years, lawmakers have opted against a straightforward tax increase and for complexity-producing provisions such as phase ins and outs, deductions and exclusions that obscure the fact that a tax increase has been levied.

**Background:**

An across-the-board tax cut was a fundamental piece of President Bush's campaign last year, and he has made it his first legislative priority since taking office this year.

The President has also made it clear that he will not support expanding legislation to cut personal taxes, on which he campaigned, to include business tax cuts at this time. Business leaders appear to have acquiesced, not wanting to antagonize President Bush with whom they are generally in agreement on business issues. Consequently, business interests have endorsed the President's 10-year, \$1.6 trillion individual tax cut package, but are laying long-range plans to lobby for their interests later.

**Recent Action:**

The House passed H.R. 3, a \$958 billion marginal income tax cut bill, on March 8, 2001, by a vote of 230 to 198. It embodies the core of President Bush's \$1.6 trillion tax cut proposal. H.R. 3 would cut the marginal tax rates for all taxpayers by reducing the current five income tax brackets to four, lower rates—10%, 15%, 25%, and 33%. The 15% rate also would be reduced to 12% effective January 1, 2001, in an effort to provide an economic stimulus. The other rate reductions would be phased in gradually over five years, with the bill being fully implemented in 2006.

While H.R. 3 sailed through the House largely along party lines, it faces a much rougher time in the Senate, which is evenly divided between Republicans and Democrats. Senate leaders did not plan originally to vote on the tax cut bill until this summer. However, because of the faltering economy and plunging stock market, Senate Majority and Minority Leaders now plan to bring a tax cut bill to the Senate Floor this spring. Senate leaders also included in their budget bill a separate \$85 billion tax cut that is intended to act as an economic stimulus this year. The budget bill is non-binding, but it does set the parameters for future Senate consideration of tax and spending bills.

Other components of President Bush's tax cut proposal—such as marriage penalty relief, a doubling of the child tax credit, and repeal of the estate, gift and generation-skipping transfer tax—are moving in separate bills. (See pages 9, 11 and 13.) The House has already packaged marriage penalty relief with a doubling of the child tax credit in a bill it passed on March 29, 2001. The bill would be fully effective in 10 years. The House passed a third bill to phase out the estate, gift, and generation-skipping transfer taxes on April 4, 2001.

---

**AICPA Position:**

As Congress decides whether a tax cut should be enacted, the AICPA strongly advocates the need for simplification of the tax code and supports proposals that would reduce complexity. For example, the GST tax proposal we developed with the American Bar Association, the American Bankers Association and the American College of Trust and Estate Counsel would help simplify the tax code, if it were enacted. (See page 11.)

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226

Edward S. Karl – Director, Taxation 202/434-9228

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

# Business Tax Shelters

---

**Issue:**

If some tax advisers and businesses are abusing the law with highly creative tax shelters that were never intended by the Congress, should appropriate changes be adopted to preclude the practice?

**Why It's  
Important to CPAs:**

Business tax sheltering poses a problem for the tax system because any actual or perceived abuse of tax laws undercuts America's system of voluntary compliance.

**Background:**

Last Congress, the Senate Finance and House Ways and Means Committees explored the business tax shelter issue at hearings, but just one major bill was introduced. It was sponsored by Rep. Lloyd Doggett (D-TX) and included proposals to increase from 20% to 40% the substantial understatement penalty and to deny deductions for shelter-related advice, as well as other proposals to curb the use of business tax shelters. In the Senate, the Finance Committee staff released two draft bills, and the IRS has issued temporary regulations requiring disclosure, listing, and registration of tax shelters.

**Recent Action:**

In early January 2001, the Department of the Treasury proposed new rules that, among other things, strengthen current standards under IRS Circular 230 for those individuals who provide opinions on tax shelters. (Circular 230 contains the rules governing practice before the IRS.) A public hearing on the proposed regulations is scheduled for May 2, 2001.

**AICPA Position:**

The issue of abusive tax shelters must be addressed. We hold no brief with abuse of the tax law, whether those abuses fall under the pejorative rubric of "tax shelters" or any other part of our tax system.

However, the AICPA opposed Rep. Doggett's bill last Congress on the grounds that it was overly broad and vague. In a joint letter with nine other organizations, the Institute told lawmakers that the bill, while "advertised as stopping abuses, could abuse taxpayers by impeding legitimate business activity with its overreaching provisions." In testimony before the House Ways and Means and Senate Finance Committees, the Institute recommended that legislation should not be adopted unless the definition of "tax shelter" was crafted in a manner that would not also sweep in many normal commercial transactions. For the same reason, the AICPA has been unable to support either draft of the Senate Finance Committee staff bills.

The AICPA is analyzing the proposed Circular 230 regulations, including proposals relating to tax shelter opinions. We will be testifying at the May 2, 2001, hearing and will have our position developed at that time.

---

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226

Edward S. Karl – Director, Taxation 202/434-9228

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205



# Individual Alternative Minimum Tax

---

**Issue:**

Should Congress modify the individual alternative minimum tax (AMT)?

**Why It's Important to CPAs:**

The AMT adds great complexity to the nation's tax law and is one of the areas targeted by the accounting profession in greatest need of simplification.

**Background:**

The AMT is rapidly becoming a growing problem for middle-income taxpayers. Congress did not intend to impose the AMT on these taxpayers; it was initially conceived as a method of extracting more tax revenue from those wealthy individuals who were best able to take advantage of certain tax loopholes. Among the most important reasons for the expanding impact of the AMT is that AMT tax brackets and exemptions are not indexed for inflation, unlike other income tax items. Also, some important tax credits—for example, the child credit, adoption credit, dependent child care credit, and the education credits—are either directly, or effectively, not allowable against the AMT. While Congress passed a temporary exemption in 1998 to allow individual AMT taxpayers to take such credits against the AMT in an effort to alleviate its impact, the exemption expires December 31, 2001.

In 1999, Congress included language to phase out the individual AMT by 2008 in a tax bill that was vetoed by the president.

**Recent Action:**

In January 2001, for the second year in a row, the Internal Revenue Service's National Taxpayer Advocate's annual report to Congress recommended that the AMT be repealed or modified. Noting that individuals with an adjusted gross income of less than \$100,000 annually will owe 60% of the AMT due within 10 years, the report said if Congress did not repeal the AMT it should:

1) substantially increase the AMT exemption amount and provide for future indexing; 2) eliminate personal and dependency exemptions as adjustments to regular taxable income in arriving at the AMT; and 3) eliminate Schedule A itemized deductions as adjustments to regular taxable income in arriving at the AMT.

The General Accounting Office also testified this year before the Senate Finance Committee that the number of taxpayers affected by the AMT under current law "is projected to expand from about 1.3 million in 2000 to about 17 million in 2010—a 31% average increase per year."

If President Bush's \$1.6 trillion tax cut plan is enacted, those numbers will increase, according to the Joint Committee on Taxation, because some provisions of his plan, such as the doubling of the child credit and the across-the-board cut in regular tax rates, would push taxpayers into the AMT. (No cuts are proposed for AMT rates.) H.R. 3, the bill passed by the House to implement the President's across-the-board cut in marginal tax rates made only modest changes to the AMT. However, Senate Finance Committee Chairman Charles Grassley (R-IA) has said he will include a comprehensive AMT adjustment in the Finance Committee's version of H.R. 3.

Legislation has been introduced in the House and Senate to repeal the AMT.

---

**AICPA Position:**

The AICPA believes that the “right” answer for the individual AMT is to repeal it. First, many substantive changes in our tax laws since the individual AMT was enacted in 1978 have obviated the policy need for such a tax. Second, the tax increasingly is hitting the wrong target audience, either in terms of having to pay it or having to file the complex AMT schedule to show they do not have to pay it. Third, while extremely expensive to repeal, the alternative is for Congress to find revenues to tinker with some of the AMT’s worst problems, on an annual or biennial basis.

The cost of fixing the AMT goes up each year, and the problem will not go away. The best answer is to bite the bullet now and put this issue behind us.

If, however, for revenue or political reasons, it is not possible to repeal the individual AMT, Congress should consider:

- Indexing the AMT brackets and exemption amounts.
- Eliminating itemized deductions and personal exemptions in arriving at AMT income.
- Eliminating AMT preferences by reducing the regular tax benefits of those preferences for all taxpayers.
- Permanently allowing certain tax credits against the AMT.
- Providing an exemption from the AMT for low- and middle-income taxpayers with a regular tax adjusted gross income of less than \$100,000.
- The impact of all future tax legislation on individuals paying the AMT.

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226  
Eileen Sherr – Technical Manager, Tax Division 202/434-9256  
J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

# Workplace Retirement Planning

---

## **Issue:**

Should Congress pass legislation to change the tax code so that the value of employer-provided retirement planning assistance is not a taxable fringe benefit to an employee?

## **Why It's Important to CPAs:**

One of the important services offered by CPAs is financial planning. CPAs who engage in this service have observed that workers' lack of financial planning sophistication jeopardizes their retirement. These financial professionals have identified workplace education as one of the best ways to alleviate the problem, but such wholesale programs cannot be implemented effectively unless the current tax law is changed.

## **Background:**

Presently, workers whose employers offer them financial planning assistance must pay federal income tax on the value of those services.

With today's trend toward making individuals more responsible for their own retirement savings, and with growing worker recognition that Social Security alone will not provide an adequate retirement for most people, it is critical that retirement planning services and materials are easily accessible to workers. Delivering these services via the workplace is one of the best ways to ensure that workers receive the education and materials necessary to plan a secure financial retirement. However, the Employee Benefit Research Institute's 1998 Retirement Confidence Survey revealed that only 39% of all workers received employer-provided educational material about retirement planning.

Workers who do not make wise investment choices today jeopardize their retirement. Recent surveys and studies underscore the critical need for retirement planning education:

- Only one in three savers has a comprehensive retirement plan. *[1997 Survey by Consumer Federation of America and NationsBank (now Bank of America)]*
- 75% of America's workers do not know how much they will need to reach their retirement goals. *[Yakoboski and Dickemper, Increased Saving but Little Planning: Results of 1997 Retirement Confidence Survey, Employee Benefit Research Institute Brief]*
- 36% of those surveyed have no money saved for retirement *[1998 Retirement Confidence Survey by the Employee Benefit Research Institute]*

The AICPA, the Consumer Federation of America, and various other organizations representing financial planners developed a provision to permit employers to offer retirement advice to employees and their spouses without that advice being considered a taxable fringe benefit to the employee.

Language similar to our proposal was originally included in the tax cut bill vetoed by the president in 1999. In 2000, it was incorporated into the comprehensive pension reform bill passed by the House and was in the version of that bill approved by the Senate Finance Committee.

---

**Recent Action:**

The proposal developed by the AICPA and others is included as Section 605 in H.R. 10, a comprehensive bill to encourage retirement savings. Reps. Rob Portman (R-OH) and Benjamin Cardin (D-MD) introduced the bill on March 14, 2001. It has more than 250 cosponsors and is almost identical to the pension bill passed by the House last year by a vote of 401 to 25.

House Ways and Means Committee Chairman Bill Thomas (R-CA) did not package H.R. 10 with any of the three bills approved by the House that would implement President Bush's tax cut proposal. He told H.R. 10's sponsors that he prefers to have the House consider the bill on its own. Chairman Thomas is expected to bring H.R. 10 to the House Floor soon.

In the Senate, Finance Committee Chairman Charles Grassley (R-IA) introduced S. 742, which is similar to H.R. 10 and which includes our proposal.

**AICPA Position:**

The AICPA advocates enactment of the language in H.R. 10 and S. 742 that would allow employers to offer retirement-planning services to employees and their spouses without the cost of those services being taxable to the employee. We will continue to push Congress to make this change.

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

Peter Kravitz – Director, Congressional and Political Affairs 202/434-9218

# Tax Simplification

---

**Issue:**

Can federal tax laws and regulations be simplified?

**Why It's  
Important to CPAs:**

Tax simplification is important to CPAs because they know the status quo is indefensible. Our tax laws are so complex that they threaten to erode our system of voluntary tax compliance.

**Background:**

U.S. tax law is so complex because lawmakers have used it to implement social policies and included a variety of mechanisms such as exclusions, phase outs and credits in an attempt to make the tax system fair. Numerous anti-abuse provisions in the Internal Revenue Code and regulations also contribute to the complexity.

While Congress has attempted several times in the past 10 years to simplify the tax system, it has had only incremental success. Successes include a 1994 budget bill that put in place simpler rules concerning the amortization of intangible assets and a 1996 law that simplified certain S corporation requirements and simplified pension reporting requirements for small business.

The 1998 law restructuring the IRS included a number of provisions that will result in broad simplification, although not in simplification of specific Internal Revenue Code sections. The IRS restructuring law also requires a complexity analysis of pending legislation that is similar to the AICPA's *Complexity Index*, which the AICPA submitted to the National Commission on Restructuring the IRS. The AICPA's *Index* is designed to enable lawmakers and others to measure the degree of relative complexity—and, therefore, the potential for taxpayer confusion—contained in any tax proposal under consideration. Many of the simplification recommendations that the IRS Restructuring Commission included in its June 1997 report were based on AICPA recommendations.

**Recent Action:**

No tax bills targeted specifically at tax simplification have been introduced in this Congress. However, if certain other tax bills being considered were enacted, such as marriage penalty relief legislation, tax simplification would result. (See page 13.)

Senate Finance Committee Chairman Charles Grassley (R-IA) earlier this year called for the Finance Committee to consider tax simplification legislation. A Finance Committee hearing is scheduled for April 26, 2001, and the AICPA will testify. The Joint Committee on Taxation also is expected to issue a study on tax simplification this spring.

**AICPA Position:**

Historically, the AICPA has been the most outspoken champion of tax simplification. At the end of 1998 we identified tax code complexity as the number one tax headache facing U.S. taxpayers in response to a request from the IRS National Taxpayer Advocate asking us to identify taxpayers' top headaches. The most recent Taxpayer Advocate annual report to the Congress identifies the need for simplification as the number one priority.

---

The AICPA believes that it is essential to simplify the tax code in order to preserve our voluntary compliance tax system. As a consequence, the AICPA has supported all the Congressional tax simplification efforts attempted during the 1990s and has offered Congress additional specific recommendations. The Institute's tax simplification recommendations about how the Internal Revenue Code could be simplified span issues affecting individuals, small businesses, employee benefits, trusts, estates and gifts, corporations and shareholders, financial services and products, and international taxation.

In February 2000, the AICPA sent to Congress a package of tax simplification recommendations hammered out in an historic joint initiative by the Institute, the Tax Executives Institute and the American Bar Association Section of Taxation. For the first time, the three groups joined together to propose how complex areas of the nation's Internal Revenue Code could be simplified. Among the recommendations released by the groups were:

- Repeal the alternative minimum tax for individuals and corporations;
- Streamline education tax incentives and capital gains taxes;
- Harmonize family-status definitions;
- Establish an objective test for worker classification;
- Eliminate or make uniform the numerous phase-outs;
- Establish a permanent safe harbor for the self-employed;
- Untangle the foreign tax credit; and
- Set up an objective, administrable test taxpayers can use to determine whether business costs are classified as business expenses or are capitalized.

Our joint effort for tax simplification continues this Congress.

Last year, the AICPA testified at a hearing before the House Small Business Subcommittee about the top areas of the tax code that need simplification in order to help America's small businesses. Among them were worker classification, capitalization, expensing and recovery of capitalized costs, installment sales, and safe harbors. The Institute also recommended to Congress that the government develop one comprehensive chart of all the federal requirements governing small businesses, including tax forms and the legal requirements under such laws as COBRA, the American Disability Act, and OSHA.

***Jurisdiction:***

House Ways and Means. Senate Finance.

***AICPA Staff  
Contacts:***

Gerald W. Padwe – Vice President, Taxation 202/434-9226

Carol B. Ferguson – Technical Manager, Taxation 202/434-9243

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

# Financial Reporting Standards-Setting Process

---

<b>Issue:</b>	Should Congress inject itself in the private sector financial reporting standards-setting process?
<b>Why It's Important to CPAs:</b>	The accounting profession believes financial reporting standards—which are at the bedrock of the nation's economy because of the reliable and uniform financial information they provide for efficient capital market systems—can best be set by a professional, independent private sector standard-setting body rather than by the government.
<b>Background:</b>	<p>Since 1933–1934, managements of public corporations have been required by U.S. securities laws to periodically prepare and publicly disclose financial statements that accurately represent the historical financial picture of the organization. In meeting that mandate, they employ Generally Accepted Accounting Principles (GAAP) that have been developed over the years by the private sector financial reporting standards-setting process through pronouncements by the Financial Accounting Standards Board (FASB) and its predecessors acting under the oversight and review of the Securities and Exchange Commission (SEC).</p> <p>The use of GAAP forces the managements of public companies, regardless of industry sector, to use the same financial accounting language (GAAP) to prepare financial statements that reflect the historical financial position of the organizations. This “uniform” GAAP basis promotes the ability of the investors to readily analyze and compare one public company with another. This results in informed decisions by individual investors that allocate capital and promote transparency in the U.S. capital markets.</p> <p>Periodically, as the political pressures surrounding a specific standards-setting project build, Congress takes an interest. Congress has twice prescribed accounting standards for certain transactions—oil and gas depletion accounting and accounting for investment tax credits. Both instances are generally regarded as failures. Because the Congressionally mandated accounting principles did not conform to GAAP, companies' accountants and auditors were forced to modify their financial reports.</p> <p>During the 106<sup>th</sup> Congress, Members of Congress again took an interest in the financial reporting standards-setting process as a result of the high-tech community's and the financial services industry's concern about FASB's project to eliminate pooling of interests treatment in corporate mergers. These companies urged Congress to pressure FASB and the SEC to modify or abandon the project.</p>
<b>Recent Action:</b>	Congress is not presently engaged in issues related to any FASB project. However, we expect going forward that Congress will be pressured to intervene whenever the private sector standards setters' efforts to produce transparency in the capital markets clash with the desire of corporate managers to maximize the market valuation of their stock.



---

**AICPA Position:**

The AICPA believes accounting standards should be set by the private sector and is unalterably opposed to having them set by the government. Even though the SEC has the statutory authority to set accounting standards, the SEC agrees with the accounting profession that accounting standards are best set by the private sector.

**Jurisdiction:**

House Financial Services. House Commerce. Senate Banking.

**AICPA Staff  
Contacts:**

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

# Social Security Reform

---

**Issue:**

How should Congress change the Social Security system to ensure its long-term financial viability?

**Why It's Important to CPAs:**

Every American has a stake in Social Security's future. On a personal level, CPAs are contributors and future beneficiaries. On a professional level, CPAs are involved with the Social Security system as business counselors, tax planners, and financial advisors to millions of Americans. CPAs' professional experience gives them a uniquely independent and objective role in the public policy debate.

**Background:**

Increased human longevity and reduced birth rate are at the heart of Social Security's long-term financial problems. In 1960, there were approximately eight-and-a-half workers for every Social Security beneficiary. Now, there are only three-and-a-third workers for every beneficiary. That number will decline to just over two in the year 2025. Social Security currently is largely a "pay-as-you-go" system. Fewer individuals paying into the system translate into fewer dollars collected to pay the benefits of a growing number of beneficiaries. The Social Security system will start spending more than it collects about 20 years from now, according to official estimates. Ten years later, the trust fund's entire accumulated surplus will be depleted. Social Security will then be able to fund only about three-quarters of its "promised" retirement benefits. There is virtually no dispute that the data clearly demonstrate that the Social Security system faces a serious financial shortfall. There is, however, disagreement about how to characterize the shortfall. Those wishing to preserve the current structure consider it to be small and manageable. Proponents of more dramatic change often characterize it as a financial crisis.

Much of the future shortfall could be avoided if the federal government did not use the surplus now generated by Social Security contributions for other purposes. Politicians from both parties wrangle over how to spend the budget "surplus." The federal government uses a unified budget that nets the non-Social Security portion of the federal budget with the Social Security surplus. There are pro's and con's to using a unified budget. One of the clear disadvantages is that it masks what portion of the operating surplus is a result of current federal operations and what portion comes from the Social Security surplus. It also prevents accumulation of funds in a separate trust fund to be used to avoid future Social Security benefit shortfalls.

Three methods of improving the financial condition of Social Security are generally acknowledged—a reduction in benefits, an increase in revenues, and an increase in the rate of return on assets used to pre-fund Social Security benefits. As lawmakers analyze the implications of each of these options, they also have to juggle philosophical differences, varying opinions about impact, and the age-old tradeoffs among fairness, simplicity, economic growth, and social policy.

While bills were introduced last Congress to restructure the Social Security System, substantive Congressional action was restricted to Republican "lockbox" proposals to prevent Social Security Trust Fund surpluses from being used to finance other government programs or tax cuts. The focus of the introduced bills to restructure

---

Social Security was to increase the rate of return of Social Security assets, because this seems to be the least politically painful option. Generally, the bills aimed to increase the rate of return either by allowing the trust fund to invest in equities, which would involve only minor restructuring, or by “privatizing” the Social Security system by mandating the creation for covered workers of individual accounts that could invest in equities.

**Recent Action:**

The House, by a vote of 407 to 2, on February 13, 2001, again approved a “lockbox” bill as a demonstration of its commitment not to spend Social Security or Medicare surpluses on other programs. Various Social Security reform bills also have been introduced this year. Most of the debate this Congress is likely to revolve around President Bush’s proposal to allow workers to put part of their Social Security contributions in private investment accounts.

**AICPA Position:**

The AICPA released a comprehensive, non-partisan analysis of the major options to reform Social Security in December 1998. Entitled *Understanding Social Security: The Issues and Alternatives*, the study is designed to help all interested Americans begin to understand how Social Security reform will affect the economy, as well as the finances of their parents, themselves, and their children. The study is based on an extensive two-year review of literature and economic data on the Social Security system.

Some of the facts highlighted in the study include:

- Social Security keeps the majority of Americans over 65 out of poverty; in fact, for 40% of America’s elderly, Social Security accounts for more than 75% of total income at retirement;
- About 90% of current retirees receive only \$750 per month, on average, from Social Security.
- Serious pockets of poverty still exist for the elderly, and therefore there is a corresponding reliance on Social Security income. Older women are twice as likely as men to be in poverty. And, for both African-Americans and Hispanic Americans, the elderly poverty rates hover at approximately 25%, or about two and a half times larger than that for white Americans.

The AICPA study does not identify a “right” solution; instead, it gives lawmakers and the public an unbiased tool to develop a clear understanding of the facts and issues surrounding reform. We do believe that Congress needs to act now, rather than later, to choose a solution and plan for a reasonable transition. The longer we delay, the more difficult and painful the solution becomes.

**Jurisdiction:**

House Ways and Means. Senate Finance.

**AICPA Staff  
Contacts:**

Gerald W. Padwe – Vice President, Taxation 202/434-9226

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

Carol B. Ferguson – Technical Manager, Taxation 202/434-9243

# Application of Wage and Hour Laws to Professional Employees

---

## **Issue:**

Should the 1938 Fair Labor Standards Act (FLSA) be re-written, without jeopardizing workers' protection, to reflect the realities of the contemporary family/workplace environment?

## **Why It's Important to CPAs:**

How the Department of Labor (DOL) interprets the FLSA is important to CPAs because it impacts the management of their practice, as well as how many of their clients conduct their businesses. Accountants and certain of their employees are "exempt" from the FLSA under the Act's professional exemption provision but do not have a specific exemption such as lawyers, doctors, or teachers. "Junior-level" accountants and CPAs early in their careers, depending on the work they actually perform, may, in some cases, be considered by the federal government, under highly complex and confusing FLSA regulations and conflicting court cases, to be hourly employees. Removal of the professional exemption entitles those employees to seek compensation for all the "overtime" worked during the past two years.

## **Background:**

The FLSA was enacted by Congress in 1938 to protect hourly employees; under the FLSA, employers are required to pay a minimum wage per hour and also to pay overtime for any hours over 40 worked in a pay period, unless they are exempt. Exempted from the law by Congress were executive, administrative, and professional employees. However, recent interpretations of the regulations implementing the FLSA by DOL personnel and the courts have eroded the exemption for professionals. Courts have held that pay docking for salaried professionals violates the FLSA, even though for many employees it is a benefit to take unpaid leave to meet family obligations.

Republican Congressional leaders pushed for several years to amend the FLSA so that hourly, private-sector employees could choose between overtime pay and extra time off when they work more than 40 hours in a given week; federal government employees already have this option. However, GOP efforts stalled in the face of labor's opposition and a threatened presidential veto. The opposition stemmed from fears that employees' rights would be undercut and that employers would coerce employees into taking paid time off (compensatory "comp" time) instead of cash. Heavy workloads, in turn, then would make it hard for workers to use their "banked" time off.

The bill passed by the House in 1997 would have allowed private sector, hourly employees to choose comp time through written agreements with their employers. It included the following employee protections: 1) Employers must pay cash wages for any unused accrued time at year's end; 2) Employers who coerce employees into choosing comp time instead of overtime wages are liable to the employee for double damages; 3) Employees can withdraw from a comp time arrangement at any time and can request cash payment for accrued, unused comp time at any time; and 4) All enforcement remedies apply to an employer failing to pay wages for accrued comp time or refusing to allow an employee to use accrued comp time.

Last Congress, Republican leaders in the House did not attempt to pass a bill similar to the one passed in 1997 because it did not have the bipartisan support it needed to pass in the Senate.

---

**Recent Action:**

The Department of Labor's new Secretary, Elaine Chao, has called for a summit on the 21<sup>st</sup> Century workforce to be held June 20, 2001, in Washington, D.C. The summit will call on leaders from business, labor unions, government and elsewhere to address the structural changes that are affecting our workforce. The AICPA, along with others in the business community, hope that the summit will serve to refresh the public debate on just how outdated are our current labor laws.

Senator Judd Gregg (R-NH) introduced S. 624, which is similar to the comp time bill the House passed in 1997. The Bush Administration supports S. 624.

A companion bill is expected to be introduced in the House, with GOP support.

No timetable has been set for consideration of the legislation.

**AICPA Position:**

The AICPA supported the comp time legislation considered by earlier Congresses, even though the legislation was primarily aimed at hourly "nonexempt" workers. (CPAs are generally classified under DOL rules as "exempt" professionals.) The AICPA strongly endorsed a bill introduced in the Senate in 1997 because it addressed the partial-day leave problem for professionals. The broader changes supported by the AICPA and others were not included in the bills considered by previous Congresses because Congressional leaders thought, incorrectly, that limiting the bills' scope would help ensure their passage. However, the AICPA and a wide cross-section of companies, professional groups, and associations continue to seek alternative ways to update the FLSA so that it helps further the goal of workplace flexibility for both employees and employers.

**Jurisdiction:**

House Education and the Workforce. Senate Health, Education, Labor and Pensions.

**AICPA Staff  
Contacts:**

J. Thomas Higginbotham – Vice President, Congressional and Political Affairs  
202/434-9205

Lisa M. Dinackus – Manager, Congressional and Political Affairs 202/434-9276

# Notes

---

# Notes

---



# Notes

---

# AICPA Profile

---

## **History:**

The American Institute of Certified Public Accountants (AICPA) was founded in 1887. Its creation marked the emergence of accountancy as a profession, distinguished by its rigorous educational requirements, high professional standards, strict code of professional ethics, licensing status, and commitment to serving the public interest.

The AICPA is the national professional association for all certified public accountants in the United States. Members are CPAs from every state and territory of the United States and the District of Columbia. Currently, there are more than 330,000 members. Approximately 40 percent of those members are in public practice, and the other 60 percent include members working in industry, education, government, and other categories.

## **Mission and Objectives:**

The mission of the AICPA is to provide members with the resources, information, and leadership that enable them to provide valuable services in the highest professional manner to benefit the public as well as employers and clients. In fulfilling its mission, the AICPA works with state CPA organizations and gives priority to those areas where public reliance on CPA skills is most significant. The AICPA engages in the following activities to achieve its mission:

- **Advocacy**— Serves as the national representative of CPAs before governments, regulatory bodies and other organizations in protecting and promoting members' interests.
- **Certification and Licensing**— Seeks the highest possible level of uniform certification and licensing standards and promotes and protects the CPA designation.
- **Communications**— Promotes public awareness and confidence in the integrity, objectivity, competence and professionalism of CPAs and monitors the needs and views of CPAs.
- **Recruiting and Education**— Encourages highly qualified individuals to become CPAs and supports the development of outstanding academic programs.
- **Standards and Performance**— Establishes professional standards; assists members in continually improving their professional conduct, performance, and expertise; and monitors such performance to enforce current standards and requirements.

Visit our web site at [www.aicpa.org](http://www.aicpa.org)



The CPA. Never Underestimate The Value.<sup>SM</sup>